

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

CRYSTAL LOFTON)	
)	CIVIL ACTION FILE NO.:
Plaintiff,)	
)	
vs.)	<u>Jury Trial Demanded</u>
)	
SOLOMON'S TEMPLE, INC.,)	
)	
Defendant.)	

NOTICE OF REMOVAL TO
THE UNITED STATES DISTRICT COURT

COME NOW, SOLOMON'S TEMPLE, INC., defendant in the above-styled civil action, and hereby files this Notice of Removal pursuant to Fed. R. Civ. P. 81(c) and 28 U.S.C. §§ 1331, 1441 and 1446, respectfully showing as follows:

FACTUAL AND PROCEDURAL BACKGROUND

1.

Plaintiff Crystal Lofton, *pro se*, filed a civil action against defendant in the Superior Court of Fulton County, Georgia, Case No. 2022-CV-372870, on November 18, 2022. The Superior Court of Fulton County, Georgia is located within the Atlanta Division of the United States District Court for the Northern District of Georgia.

2.

Plaintiff served defendant with a copy of the Summons and Complaint on or about December 7, 2022.

3.

Plaintiff alleges in her Complaint that defendant owes her overtime wages, as well as “regular” and vacation pay. (Complaint, p. 1). Plaintiff further alleges that she suffered an injury to her left breast from “flipping rooms that had been contaminated” by Covid-19. (Id. at 1-2). Plaintiff seeks damages for her allegedly unpaid overtime wages, emotional distress, and “physical damages.” (Id. at 2).

4.

Defendant’s Notice of Removal is timely filed within thirty (30) days of service on defendant, as required by 28 U.S.C. § 1446(b).

5.

Venue is proper for removal to this district pursuant to 28 U.S.C. § 1441(a) because this district and division embrace the place in which the removed action was pending.

6.

Further, as required by 28 U.S.C. § 1446(a), the entire record in the Superior Court action, including copies of all process, pleadings and orders filed as of this

date, as well as a copy of the court's docket sheet, are attached to and filed contemporaneously herewith as Exhibit "A."

BASIS FOR REMOVAL

7.

Defendant incorporates by reference as if fully set forth herein the preceding paragraphs 1 through 6 of this Notice of Removal.

8.

This Court has original jurisdiction in any action involving a federal question of law under the laws of the United States. See 28 U.S.C. § 1331.

9.

This is a civil action over which this Court has original jurisdiction under the provisions of 28 U.S.C. § 1331 because plaintiff made a claim for unpaid overtime, which can only arise under federal law, i.e., the Fair Labor Standards Act ("FLSA"), 29 U.S.C. § 207(a).

10.

Georgia has no state-law claim for unpaid overtime wages. Accordingly, plaintiff would have no claim for unpaid overtime wages but for the existence of the FLSA.

11.

Because plaintiff has asserted a claim involving a federal question of law, this action may be removed to this Court by defendant pursuant to the provisions of 28 U.S.C. §1441.

12.

The remainder of plaintiff's ill-defined claims may also be removed to this Court by defendant pursuant to the provisions of 28 U.S.C. §1441.

CONCLUSION

13.

Defendant incorporates by reference as if fully set forth herein the preceding paragraphs 1 through 12 of this Notice of Removal.

14.

As required by 28 U.S.C. § 1446(d), defendant has given prompt written notice of this Notice of Removal to plaintiff, *pro se*, by mailing a copy of this Notice **via Certified Mail, Return Receipt Requested, Receipt No. 9171 9690 0935 0278 3238 38.**

15.

Defendant will also promptly file this Notice of Removal with the Clerk of the Superior Court of Fulton County, Georgia as required by 28 U.S.C. § 1446(d), a copy of which is attached hereto as Exhibit “B.”

16.

Defendant reserves the right to amend or supplement this Notice of Removal in accordance with the Federal Rules of Civil Procedure and other applicable law.

17.

Defendant reserves all defenses to the underlying action.

18.

The undersigned has read this Notice of Removal, and to the best of the undersigned’s knowledge, information and belief, formed after reasonable inquiry, it is well-grounded in fact and is warranted by existing law, and it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation.

WHEREFORE, Defendant respectfully requests that this action now pending in the Superior Court of Fulton County, Georgia be removed to the United States District Court for the Northern District of Georgia, Atlanta Division.

DEFENDANT DEMANDS A TRIAL BY JURY.

Respectfully submitted, this 6th day of January, 2023.

**CRUSER, MITCHELL, NOVITZ,
SANCHEZ, GASTON & ZIMET, LLP**

/s/ Sean Keenan _____

Sean Keenan

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/s/ Cameron Boone _____

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(Attorneys for Defendant)

275 Scientific Drive
Suite 2000
Peachtree Corners, GA 30092

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day filed the within and foregoing
NOTICE OF REMOVAL TO THE UNITED STATES DISTRICT COURT
with the Clerk of Court using the CM/ECF system.

I FURTHER CERTIFY that I have this day served a copy of the above-
referenced pleading, via U.S. Mail, upon the following:

Crystal Lofton, pro se
477 Cathedral Dr.
McDonough, GA 30253

Respectfully submitted, this 6th day of January, 2023.

**Cruser, Mitchell, Novitz, Sanchez,
Gaston & Zimet, LLP**

/s/ Sean Keenan

Sean Keenan
Georgia Bar No. 523871